

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 291 – HB 1025

April 15, 2013

SUMMARY OF ORIGINAL BILL: Adds “criminal gang crimes” to the statement of legislative intent in Tenn. Code Ann. § 39-12-202, the “Racketeer Influenced and Corrupt Organization (RICO) Act of 1989.”

Lengthens the time that can elapse between incidents of racketeering conduct from two years to five years. Redefines “racketeering activity” to specifically list offenses that are meant to constitute a “criminal gang offense” under Tenn. Code Ann. § 39-12-203.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$743,900/Incarceration*

SUMMARY OF AMENDMENT (006303): Adds trafficking for commercial sex acts, promoting prostitution, patronizing prostitution, solicitation of a minor, and soliciting sexual exploitation of a minor, exploitation of a minor by electronic means to the definition of “racketeering activity.”

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the corrected fiscal note.

Assumptions for the bill as amended:

- According to the Department of Correction (DOC), the offenses that constitute a “criminal gang offense,” as defined in Tenn. Code Ann. § 40-35-121(a) have averaged 6,902.6 admissions over the last 10 years. It is assumed that three percent, 207 admissions, were committed by gang members ($6,902.6 \times .03$). It is further assumed that five percent, 10 admissions, will result in admissions for RICO violations in addition to the predicate offense ($207 \times .05$).
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for one additional admission ($10 \times .1178$) for a total of 11 ($10 + 1$).
- RICO is a Class B felony. The average time served for a Class B felony is 5.29 years.

SB 291 – HB 1025

- According to the DOC, 49.11 percent of offenders will re-offend within three years of their release. A recidivism discount of 49.11 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (11 offenders x .4911 = 5 offenders).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on six offenders [11 offenders – 5 (recidivism discount)] serving an additional 5.29 years (1,932.17 days) for a total of \$123,987 (\$64.17 x 1,932.17 days). The cost for six offenders is \$743,922 (\$123,987 x 6).
- Adding trafficking for commercial sex acts, promoting prostitution, patronizing prostitution, solicitation of a minor, and soliciting sexual exploitation of a minor, exploitation of a minor by electronic means will not significantly impact admissions.
- Due to the low number of convictions the bill would result in, it is assumed that the courts, district attorneys, and public defenders can accommodate any impact to their caseloads within existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/trm